

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 40073PC/GC	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/AU2005/000063	International filing date (day/month/year) 21 January 2005	Priority date (day/month/year) 23 January 2004	
International Patent Classification (IPC) or national classification and IPC  Int. Cl.  <i>A61B 5/154 (2006.01)</i>			
Applicant MEDIGARD LIMITED et al			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a.  (*sent to the applicant and to the International Bureau*) a total of 3 sheets, as follows:

sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b.  (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand 15 August 2005	Date of completion of this report 28 April 2006
Name and mailing address of the IPBA/AU  AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: <a href="mailto:pct@ipaustralia.gov.au">pct@ipaustralia.gov.au</a> Facsimile No. (02) 6285 3929	Authorized Officer  <b>XAVIER GISZ</b> Telephone No. (02) 6283 2064

## Box No. I Basis of the report

1. With regard to the language, this report is based on:

 The international application in the language in which it was filed A translation of the international application into translation furnished for the purposes of: , which is the language of a international search (under Rules 12.3(a) and 23.1 (b)) publication of the international application (under Rule 12.4(a)) international preliminary examination (Rules 55.2(a) and/or 55.3(a))2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*): the international application as originally filed/furnished the description:

pages 1-16 as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

 the claims:

pages as originally filed/furnished

pages\* 17-19 as amended (together with any statement) under Article 19

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

 the drawings:

pages 1/8 – 8/8 as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

 a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.3.  The amendments have resulted in the cancellation of: the description, pages the claims, Nos. the drawings, sheets/figs the sequence listing (*specify*): any table(s) related to the sequence listing (*specify*):4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)). the description, pages the claims, Nos. the drawings, sheets/figs the sequence listing (*specify*): any table(s) related to the sequence listing (*specify*):

\* If item 4 applies, some or all of those sheets may be marked "superseded."

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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## 1. Statement

Novelty (N)	Claims 1-9	YES
	Claims 10	NO
Inventive step (IS)	Claims 1-9	YES
	Claims 10	NO
Industrial applicability (IA)	Claims 1-10	YES
	Claims	NO

## 2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D2.... US 6,572,565

Novelty (N) Claim 10

Claim 10: D2 discloses a blood sampling assembly with a retractable needle. The needle holder and attached needle are held in the cylinder (10) by tabs (20). To retract the needle the health care worker inserts, and rotates the tube (62) relative to cylinder (10) and the needle holder and needle are automatically withdrawn into the tube (62) (column 8 lines 38 to 43).

Inventive Step (IS) Claim 10

Claim 10 also lacks an inventive step for the reasons given above.